

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION**

DARNELL HARRIS,)	
)	
Plaintiff,)	
)	
v.)	CV417-233
)	
SHERIFF JOHN WILCHER)	
)	
Defendant.)	
)	

REPORT AND RECOMMENDATION

Darnell Harris is unhappy. The Chatham County sheriff, who houses him in his jail, failed to abide the Georgia governor’s order to evacuate in the face of predictions that Hurricane Irma would strike the Georgia coastline in September 2017. It didn’t. Nonetheless, Harris wants the sheriff to pay him \$275,000 in “damages,” for “had [he] died in the hurricane” he would have been unable to support his child and “it would[’]ve cost [his] family \$80,000 to bury [him].” Doc. 1.

Legal absurdities such as this merit a speedy dismissal. Harris cites the Eighth Amendment, but only “the unnecessary and wanton infliction of pain implicates the Eighth Amendment.” *Wilson v. Seiter*, 501 U.S. 294, 297 (1991). Harris didn’t suffer any “pain” at all, for he

alleges neither psychic nor physical injury. He references his “due process” and “equal protection” rights under the Fourteenth Amendment as well, but he does not allege any facts remotely suggesting a violation of those hallowed protections of constitutional law.

King Lear, in his rage against his ungrateful and treacherous daughters, did bid “the winds blow the earth into the sea” and the “hurricanoes” to “spout till you have drench’d our steeples, drown’d” the weather vanes. William Shakespeare, *The Tragedy of King Lear*, Act III, scenes 1 & 2. Such things didn’t happen to the king, and they didn’t happen to Darnell Harris either. Hurricane Irma tracked through western Georgia and resulted in only tropical storm conditions in the Savannah area. Harris apparently didn’t even get wet from the rain. And no wonder. He was safely ensconced in the concrete and steel bunker known colloquially as the Chatham County Jail, which is located on high land some 15 to 20 miles from the sea. Thousands upon thousands of Savannahians with far less substantial dwellings elected to batten down the hatches and weather that storm. Local law enforcement stayed. Harris’ jailers stayed. Utility crews stayed, as did hospital staffs and some barkeeps. A lot of locals had a ripping good time.

Harris was forced to stay too. But, again, he ain't happy about it. But that general unhappiness cannot under any interpretation of the law be turned into a legitimate claim for the recovery of money damages for a violation of his rights under the Constitution of the United States. This suit is legally frivolous and should be immediately **DISMISSED** as such. *Neitzke v. Williams*, 490 U.S. 319, 327 (1989) (28 U.S.C. § 1915(e)(2)(B)(i) empowers the federal courts to dismiss claims resting upon “an indisputably meritless legal theory”); 42 U.S.C. § 1997e(e) (“No Federal civil action may be brought by a prisoner confined in a jail, prison, or other correctional facility, for mental or emotional injury suffered while in custody without a prior showing of physical injury or the commission of a sexual act.”)

This Report and Recommendation (R&R) is submitted to the district judge assigned to this action, pursuant to 28 U.S.C. § 636(b)(1)(B) and this Court's Local Rule 72.3. Within 14 days of service, any party may file written objections to this R&R with the Court and serve a copy on all parties. The document should be captioned “Objections to Magistrate Judge's Report and Recommendations.” Any request for additional time to file objections should be filed with the

Clerk for consideration by the assigned district judge.

After the objections period has ended, the Clerk shall submit this R&R together with any objections to the assigned district judge. The district judge will review the magistrate judge's findings and recommendations pursuant to 28 U.S.C. § 636(b)(1)(C). The parties are advised that failure to timely file objections will result in the waiver of rights on appeal. 11th Cir. R. 3-1; *see Symonett v. V.A. Leasing Corp.*, 648 F. App'x 787, 790 (11th Cir. 2016); *Mitchell v. United States*, 612 F. App'x 542, 545 (11th Cir. 2015).

SO REPORTED AND RECOMMENDED, this 3rd day of April, 2018.


UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF GEORGIA